

III. Remarks

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1, 11, 13-22, 31 and 33-39 are pending in the application. Claims 1 and 35 are independent.

Claim 1 has been amended to clarify that: (i) both the radiation source and the radiation sensor element are stationary, (ii) a boundary element is disposed between the radiation source and the radiation sensor element to define a thickness corresponding to the distance between the boundary element and the radiation source, and (iii) the motive means alters the relative distance between the boundary element and the radiation source to thereby alter the thickness of the radiation field from a first thickness and a second thickness. These amendments are supported, *inter alia*, by original claims 7, 8, 9 and 12. Claim 11 has been amended to depend from claim 1. Claim 22 has been amended to depend from claim 1 and to clarify that radiation is generated from the radiation source. Claims 31, 33 and 34 have been amended to update their dependency. All claims amended herein have been amended for clarity with respect to the specification and Drawings, and not in response to any statutory requirement.

Claims 2-10, 12, 23-30 and 32 have been cancelled without prejudice or disclaimer of the subject matter recited therein.

Accordingly, it is believed that the amendments submitted herein do not add new subject matter to the present application.

In the outstanding Official Action, the Examiner rejected original claims 1-8 and 22-36 under 35 U.S.C. §102(b) as being purportedly anticipated by United States patent 4,290,695 [Schmitt]. This rejection is traversed. Reconsideration is requested in light of the following remarks.

Schmitt teaches a method and apparatus for measuring "turbidity" in a fluid. The Schmitt system requires a rotatable radiation source and a translatable radiation detection assembly - see column 7, line 57 to column 8, line 17. In contrast, the radiation source in the system defined by claim 1 utilizes a stationary radiation source. Further, Schmitt teaches a detector assembly 66 having a hollow cylindrical housing 70 containing a detector 68 - see column 8, lines 17-25. In use, cylindrical housing 70 is moved as shown in arrow B in Figure 1. Since detector 68 is contained in movable housing 70, detector 68 moves with housing 70 as the latter is moved. Thus, Schmitt provides no clear teaching of having a stationary radiation source and a

stationary radiation detector with a boundary element movable therebetween to alter the thickness of the fluid in the radiation field. These features are now present in claim 1.

Accordingly, Applicants submit that claim 1 is not anticipated by Schmitt. Further, Applicants submit that Schmitt does not suggest a structure as defined in claim 1. Accordingly, the Examiner is requested to reconsider and withdraw the rejection of claim 1 under 35 U.S.C. §102(b).

With regard to original claim 35, this claim recites the presence of two submersible radiation sensor elements. In the outstanding Official Action, the Examiner provides no commentary as to how this claim can be read onto Schmitt. Indeed, there is no teaching in Schmitt of a system which utilizes two submersible radiation sensor elements as set out in claim 35. Accordingly, the Examiner is requested to reconsider and withdraw the rejection of original claim 35 under 35 U.S.C. §102(b).

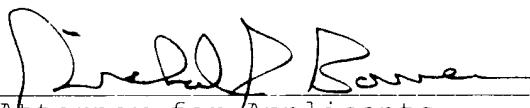
Claims 2-18, 22-34 and 36 either have been cancelled or are dependent on independent claims 1 and 35. As such, it is believed these claims are now free of objection under 35 U.S.C. §102(b).

The Examiner also raised a rejection under 35 U.S.C. §103(a). It is believed this rejection will fall if the rejection of the independent claims has been overcome as discussed above.

In summary, it is believed that the present application is now in condition for allowance. Action to that end is requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3500. All correspondence should continue to be directed to our address given below.

Respectfully submitted,


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